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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,080	12/22/2000	Mai-Ian Tomsen	4000.2.10	3248

32641 7590 04/07/2005

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EXAMINER

SALTARELLI, DOMINIC D

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,080

Applicant(s)

TOMSEN ET AL.

Examiner

Dominic D Saltarelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/13/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 61 is objected to because of the following informalities: Claim 61, line 6 reads "comprising **the** contextual information" and should be read --comprising contextual information--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 4 and 34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The invention is a method and system for retrieving supplemental content to a television program that does not require context information to be encoded into the television program. However, claims 4 and 34 contradictorily require context information to be encoded into the television program (the indication of the program being watched is encoded into the VBI).
4. Claims 10-12 and 40-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in

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the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The invention is a method and system for retrieving supplemental content to a television program that does not require context information to be encoded into the television program. However, claims 10-12 and 40-42 contradictorily require context information to be encoded into the television program (closed captioning text is context information that is encoded into a television program).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 6-9, 14, 16, 17, 31-33, 36-39, 44, 46, 47, and 61 are rejected under 35 U.S.C. 102(e) as being anticipated by Voyticky et al. (6,637,028) [Voyticky].

Regarding claims 1 and 31, Voyticky teaches a method and system for selectively retrieving and displaying supplemental content related to a television program being displayed by an interactive television system (col. 2 line 58 – col. 3 line 9) without requiring context information to be specifically encoded into the television program (information is retrieved based on recorded time and channel information, col. 5, lines 62-67 and col. 6, lines 43-49), the system comprising:

A remote control device (fig. 1, handheld remote 105) for the interactive television system (fig. 1), the remote control device comprising a specifically-designated button for requesting supplemental content related to the television program (the 'event' button, col. 5, lines 49-67); and

A set top box for the interactive television system (col. 23, lines 41-46), the set top box being configured to obtain contextual information pertaining to the television program being displayed (uploading the context information from the remote to the system, col. 7 line 58 – col. 8 line 5), send an information request comprising the contextual information to a content source (fig. 1, server 107, col. 6, lines 16-21), and retrieve supplemental content from the content source for display by the interactive television system in response to the content source identifying supplemental content related to the television program based upon the contextual information (col. 6, lines 43-61).

Regarding claims 2 and 32, Voyticky discloses the method and system of claims 1 and 31, and additionally discloses a display device for displaying the supplemental content retrieved from the content source (the digital television is a combined device which displays both the programming and supplemental content, fig. 22 and col. 23, lines 37-51).

Regarding claims 3 and 33, Voyticky discloses the method and system of claims 1 and 31, wherein the contextual information comprises an indication of

the television program being displayed (time and channel information represent the program displayed at the time the user pressed the event key, col. 10 line 64 – col. 11 line 9).

Regarding claims 6 and 36, Voyticky discloses the method and system of claims 3 and 33, and additionally discloses a search engine configured to search the content source for supplemental content related to the indication of the television program (col. 6, lines 21-49).

Regarding claims 7 and 37, Voyticky discloses the method and system of claims 1 and 31, wherein the contextual information comprises a time index (col. 10, lines 34-46).

Regarding claims 8 and 38, Voyticky discloses the method and system of claims 7 and 37, wherein the time index indicates a time at which the user command is received (col. 11, lines 1-9).

Regarding claims 9 and 39, Voyticky discloses the method and system of claims 7 and 37, and additionally discloses a search engine configured to search the content source for supplemental content related to a particular time segment of the television program based upon the time index (col. 6, lines 43-49).

Regarding claims 14, 16, 44, and 46, Voyticky discloses the method and system of claims 1 and 31, wherein the information request comprises an identifier (IP address) of the interactive television system (the request is made to the content provider over the Internet, and establishing a session with the server over Internet Protocol requires sending the IP address of the home computer, col. 6, lines 16-21).

Regarding claims 17 and 47, Voyticky discloses the method and system of claims 14 and 44, wherein the content source is configured to send the identified supplemental content to an interactive television system associated with the identifier (col. 6, lines 50-61).

Regarding claim 61, Voyticky discloses a method for selectively retrieving and displaying supplemental content related to a television program being displayed by an interactive television system (col. 2 line 58 – col. 3 line 9), comprising:

Receiving a user command to find supplemental content (pressing the event button, col. 5, lines 62-67);

Sending an information request to a content source, the information request comprising contextual information (sending the event information upstream, col. 6, lines 16-21); and

In response to the content source identifying supplemental content related to the television program being displayed (col. 6, lines 43-49) based, at least in part, upon the time at which the information request is received (col. 21 line 61 – col. 22 line 15), retrieving the supplemental content from the content source for display by the interactive television system (col. 6, lines 50-61).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5, 21-29, 35, and 51-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voyticky in view of Yen et al. (5,991,799, of record) [Yen].

Regarding claims 5 and 35, Voyticky discloses the method and system of claims 3 and 33, but fails to disclose the set top box if further configured to read the indication of the television program from electronic programming guide data associated with the television program.

In an analogous art, Yen teaches an interactive television system (fig. 1) wherein electronic programming guide data is received (col. 7, lines 10-25), said programming guide data providing very comprehensive data regarded received content (subject matter, locality values, content ratings, col. 7, lines 29-67),

providing sufficient information for dynamic retrieval of content which supplements a displayed program (col. 8 line 57 – col. 9 line 12).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Voyticky to configure the set top to read the indication of the television program from electronic programming guide data associated with the television program, as taught by Yen, as EPG data is sufficiently comprehensive to allow for dynamic retrieval of supplemental content, allowing a system to perform a more detailed and relevant search for said content.

Regarding claims 21 and 51, Voyticky discloses the method and system of claims 1 and 31, but fails to disclose the set top box is further configured to receive a list of supplemental content items from the content source in response to a search by the content source, receive a user selection of a supplemental content item from the list, send the user selection to the content source, and retrieve from the content source the selected supplemental content item for display by the interactive television system.

In an analogous art, Yen teaches the display of a menu of located (by background element 121, col. 11, lines 4-24) supplemental content items to a user (foreground element displays a set of information items to a user, col. 11, lines 25-40), wherein the user selects one of the content items, and upon

selection, retrieving the requested content for display (col. 13, lines 8-18), allowing the user to select the content that he/she is most interested in.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system of Voyticky to include presenting a list of supplemental content items to a user, who then selects an item from the list, and then retrieves said content item for display, as taught by Yen, wherein the list would be retrieved from the content source and the request for the supplemental content item would be retrieved by the content source, focusing the transmission of supplemental content items to only those that are of express interest to users.

Regarding claims 22, 23, 52, and 53, Yen further discloses the use of uniform resource locator (URL) links as a means to access content from content sources (content from web pages, which is accessed using URLs, is a source of content for presentation, col. 6, lines 21-26), for the benefit of retrieving diverse, web-based content.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Voyticky and Yen to include URL links to supplemental content, as taught by Yen, for the benefit of including the diversity of web-based content in the list of available supplemental content.

Regarding claims 24 and 54, Yen additionally teaches filtering information items (col. 9, lines 15-24) based on user preferences (col. 9, lines 36-44), limiting

the display of supplemental content items to those most relevant or deemed of most interest to the user.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Voyticky and Yen to include a filtering component configured to filter the list of items of supplemental content results based on user preferences, as taught by Yen, for the benefit of limiting the display of supplemental content items to those most relevant or deemed of most interest by the filtering component to the user.

Regarding claims 25 and 55, Yen additionally teaches storing the user preferences locally (in information multiplexer 120, col. 9, lines 36-44), as a dedicated device can store detailed preference information about a particular user (explicit and implicit setting of preference information, col. 9 line 66 – col. 10 line 62).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Voyticky and Yen to include storing the user preferences locally, as taught by Yen, and including them in the information request sent to the content provider, as it is the content provider which performs the search for supplemental content (Palmer, col. 4, lines 10-14), for the benefit of providing detailed user preference information for more effective filtering of supplemental content items.

Regarding claims 26, 27, 28, 29, 56, 57, 58, and 59, Yen additionally teaches storing very detailed aspects of user preferences (col. 9 line 66 – col. 10 line 62), such aspects including content to exclude (content which falls below an alert threshold is ignored, col. 11, lines 57-65), preferred type of content (col. 9, lines 37-48), preferred source of content (websites and subscription content, col. 9 line 66 – col. 10 line 4), and preferences based on historical analysis of previous selections from prior lists of content items (col. 10, lines 10-21), all of which provide a high degree of granularity when defining user preferences.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system of Voyticky and Yen to include content to exclude, preferred types of content, preferred sources of content, and preferences based on historical analysis of previous selections from prior lists of content items, as taught by Yen, for the benefit of providing a high degree of granularity in user preferences, which increases the effectiveness of any filtering performed based on said preferences.

9. Claims 13 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voyticky in view of Kenner et al. (5,956,716) [Kenner].

Regarding claims 13 and 43, Voyticky discloses the method and system of claims 1 and 31, wherein supplemental content is retrieved from a global information network for display by the interactive television system (the supplemental content is received from the Internet, col. 6, lines 50-61), but fails to disclose a search engine configured, in response to supplemental content

related to the television program not being found at the content source, to search a global information network for supplemental content related to the television program based on the contextual information.

In an analogous art, Kenner teaches a content retrieval system (fig. 4, col. 7, lines 23-34) wherein users request content from a content source (user request video clips from local SRU, col. 8, lines 51-65), which then searches for the content at the source (local search for video clips is performed first, col. 9, lines 15-20 and 42-45), and if the requested content is not found at the content source, the search is expanded over a global information network (request is forwarded to the PIM 222, col. 9, lines 42-54, which search for the requested information, col. 10, lines 10-12 and col. 8, lines 18-25, over a global network [widely distributed data sources, col. 12, lines 33-35, connected by the Internet, col. 20, lines 50-63]), thus retrieving information from the broadest and most diverse source of information available, the Internet (col. 5, lines 39-55 and col. 20 line 10 – col. 21 line 16).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Voyticky to include a search engine configured, in response to supplemental content related to the television program not being found at the content source, to search a global information network for supplemental content related to the television program based on the contextual information, as taught by Kenner, for the benefit of broadening the

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capability of the content source to provided supplemental content by drawing upon the expanded storage and diversity of resources provided by the Internet.

10. Claims 15 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voyticky.

Regarding claims 15 and 45, the official notice presented in the prior action stating that it is notoriously well known in the art to utilize a media access control (MAC) address as an identifier was not traversed and is accordingly taken as admission of the fact noted (see MPEP 2144.03).

Also, regarding claims 15, and 45, Voyticky discloses the method and system of claims 14 and 34, but fails to disclose the identifier comprises a media access control (MAC) address.

It is notoriously well known in the art to utilize a media access control (MAC) address as an identifier, as it has the benefit of being a nearly universally recognized for of network identification for use in routing data to specific locations in networks.

Therefore, it would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Voyticky to include in the identifier a MAC address of the interactive television system, a nearly universally recognized for of network identification for use in routing data to specific network hardware.

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11. Claims 18 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voyticky in view of Feinleib (6,637,032, of record).

Regarding claims 18 and 48, Voyticky discloses the method and system of claims 1 and 31, wherein the contextual information comprises an indication of a channel being displayed (col. 5, lines 62-67), but fails to disclose the set top box if further configured to use the indication of the channel to identify a content source to receive the information request.

In an analogous art, Feinleib teaches supplying supplemental information from a particular content source which relates to a particular channel (col. 1, lines 43-51), for the benefit of enhancing a particular channel with a dedicated source of supplemental content.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Voyticky to configure the set top box to use the indication of the channel to identify a content source to receive the information request, as taught by Feinleib, for the benefit of enhancing the particular channel being watched with a dedicated source of supplemental content.

12. Claims 19, 20, 49, and 50 rejected under 35 U.S.C. 103(a) as being unpatentable over Voyticky in view of Nishikawa et al. (6,348,932, of record) [Nishikawa].

Regarding claims 19, 20, 49, and 50, Palmer discloses the method and system of claims 1 and 31, but fails to disclose the set to box is configured to

simultaneously display the supplemental content with the television content, wherein the displayed television program is reduced in size relative to the size of the displayed supplemental content.

In an analogous art, Nishikawa teaches displaying both the video of a currently selected program along with supplemental content (figs. 10 and 12), wherein the video is displayed in a decimated region of the screen, allowing it and supplemental content (EPG data, ticker region data 566, and DIP data) to be displayed simultaneously (col. 8 line 59 – col. 9 line 6 and col. 12, lines 15-35), for the benefit of perusing supplemental content in interactive television without interrupting or 'missing' the broadcast program.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Voyticky to include simultaneously displaying the supplemental content with the television content, wherein the displayed television content is reduced in size (decimated) relative to the size to the displayed supplemental content (video region is reduced in size to allow room for the supplemental content display), as taught by Nishikawa, for the benefit of perusing the supplemental content in the interactive television system without interrupting or 'missing' the television content.

13. Claims 30 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voyticky in view of Kenner and Yen.

Regarding claims 30 and 60, Voyticky discloses the method and system of claims 1 and 31, but fails to disclose the set top box is further configured to receive a list of supplemental content items from the content source in response to a search of a global information network, receive a user selection of a supplemental content item from the list, and retrieve from the global information network the selected supplemental content item for display by the interactive television system.

In an analogous art, Kenner teaches a content retrieval system (fig. 4, col. 7, lines 23-34) wherein users request content (col. 8, lines 14-25) which is searched for over a global information network (request is forwarded to the PIM 22, col. 9, lines 42-54, which searches for the requested information, col. 10, lines 10-12 and col. 8, lines 18-25, over a global network [widely distributed data sources, col. 12, lines 33-35, connected by the internet, col. 20, lines 50-63]), thus retrieving information from the broadest and most diverse source of information available, the internet, (col. 5, lines 39-55 and col. 20 line 10 – col. 21 line 16).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system disclosed by Voyticky to include searching for content over a global network, as taught by Kenner, for the benefit of retrieving the supplemental information from the widest and most diverse source of information available, the internet.

In an analogous art, Yen teaches the display of a menu of located (by background element 121, col. 11, lines 4-24) supplemental content items to a user (foreground element displays a set of information items to a user, col. 11, lines 25-40), wherein the user selects one of the content items, and upon selection, retrieving (from the internet, when the request is for internet data, col. 5, lines 28-37) the requested content for display (col. 13, lines 8-18), allowing the user to select the content that he/she is most interested in.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and system of Voyticky and Kenner to include presenting a list of supplemental content items to a user, who then selects an item from the list, and then retrieves said content item for display, as taught by Yen, wherein the list would be retrieved from the content source, focusing the selection of supplemental content items to only those that are of most interest to users.

Response to Arguments

14. Applicant's arguments with respect to claims 1-60 have been considered but are moot in view of the new grounds of rejection. However, points raised regarding the applicability of the Kenner reference (applicant's remarks, pages 21-22) to the claimed invention will be addressed here.

Specifically, applicant asserts that Kenner teaches searching for a known entity from a plurality of known locations, and that makes it non-analogous to the claimed

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invention, which calls for searching for information whose existence and location are not known (applicant's remarks, 3rd and 4th paragraphs). However, the claims in question, 12 and 42, call only for broadening the search for supplemental content if said content is not found at the local source. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

15. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in

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such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Typed or printed name of person signing this certificate:

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on M-F 10-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dominic Saltarelli
Patent Examiner
Art Unit 2611

DS



CHRIS GRANT
PRIMARY EXAMINER